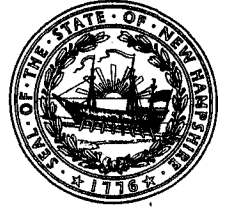




The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

January 11, 2006

Pembroke Sunshine Center, Inc.  
Attn: James Desjardins  
14 South Broadway  
Salem, NH 03079

Re: Docket No. AF 05-084 – Pembroke Sunshine Center, Inc.

Dear Mr. Desjardins:

Enclosed for your records is a copy of the fully executed and accepted Administrative Fine by Consent Agreement in the above-captioned matter.

On behalf of the Department of Environmental Services, thank you for your cooperation in resolving this matter.

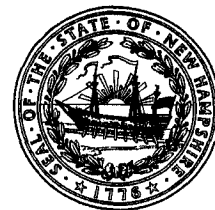
Sincerely,

**COPY**  
Michael P. Scifani,  
Legal Assistant

cc: Anthony P. Giunta, P.G., Director, Waste Management Division  
Gretchen R. Hamel, Administrator, DES Legal Unit  
Kerry D. Barnsley, Compliance Attorney, DES Legal Unit  
DES Public Information Officer  
Linda Birmingham, DES WMD



The State of New Hampshire  
*Department of Environmental Services*



Michael P. Nolin  
Commissioner

Pembroke Sunshine Center, Inc.  
14 S. Broadway  
Salem, NH 03079

RE: Daisy Cleaners  
14 S. Broadway, Salem, NH  
EPA ID No. NHD073981250

**ADMINISTRATIVE FINE  
BY CONSENT**

**No. AF 05-084**

**I. INTRODUCTION**

This Administrative Fine by Consent is entered into by and between the Department of Environmental Services, Waste Management Division, and Pembroke Sunshine Center, Inc., pursuant to RSA 147-A:17-a. This Administrative Fine by Consent ("Agreement") is effective upon signature by all parties.

**II. PARTIES**

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. Pembroke Sunshine Center, Inc. ("Pembroke") apparently d/b/a Daisy Cleaners, is a New Hampshire corporation that has a principal office and mailing address of 14 S. Broadway, Salem, NH, 03079.

**III. BACKGROUND**

1. Pursuant to RSA 147-A, the Department of Environmental Services regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 ("Hazardous Waste Rules") to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per offense for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Pembroke is a hazardous waste generator that notified the United States Environmental Protection Agency ("EPA") of its activities through DES on September 1, 1983. EPA Identification Number NHD073981250 was assigned to Pembroke's site located at 14 S. Broadway, Salem, New Hampshire.

4. On November 3, 2004, DES personnel inspected Pembroke for compliance with RSA 147-A and its implementing regulations, the New Hampshire Hazardous Waste Rules. As a result of the violations of the Hazardous Waste Rules observed during this inspection, DES issued Letter of Deficiency No. WMD 05-01 ("LOD") to Daisy Cleaners on February 1, 2005. Based on the violations observed during the inspection listed above, DES believes that an administrative fine is appropriate in this case for the Class I violation.

#### **IV. ALLEGATIONS, ADMINISTRATIVE FINES**

1. Pembroke failed to conduct inspections of the hazardous waste storage area for a total of one-hundred-fifty-six (156) weeks over a 3-year time period, as required by Env-Wm 509.02(a)(1) ("Violation 1"). Env-C 612.07(a) authorizes a fine of \$1,000 per inspection per area per week, for a potential fine of \$156,000. For settlement purposes only, DES is seeking a fine for failing to conduct inspections at one (1) hazardous waste storage area for twenty-five (25) weeks, for a penalty of \$25,000 (*i.e.*, twenty-five (25) inspections at \$1,000 each).
2. Pembroke failed to conduct initial and four (4) years of annual training for one (1) employee, Suzan Lank with hazardous waste management duties, as required by Env-Wm 509.02(a)(2) ("Violation 2"). Env-C 612.07(b) authorizes a fine of \$1,750 per individual not trained for initial training and \$1,000 per individual not trained for annual updates for a potential fine of \$5,750.
3. Pembroke failed to maintain a complete contingency plan on-site, as required by Env-Wm 509.02(a)(5) ("Violation 3"). Env-C 612.07(e) authorizes a fine of \$2,000.
4. Pembroke failed to post a complete emergency posting at the nearest telephone to the Main Hazardous Waste Storage Area, as required by Env-Wm 509.02(b) ("Violation 4"). Env-C 612.07(h) authorizes a fine of \$1,000 per area.
5. Pembroke failed to store seven (7) universal waste Lamps in containers, as required by Env-Wm 1103.03(c) and Env-Wm 1112.03(a) ("Violation 5"). Pursuant to Env-C 610, a fine of \$1,000 for storage practices that pose a hazard to human health and the environment has been calculated.
6. Pembroke failed to mark seven (7) universal waste Lamps, with any of the following markings: "Universal Waste – Lamps(s)", "Waste Lamp(s)", or "Used Lamp(s)", as required by Env-Wm 1102.03 and Env-Wm 1112.04 ("Violation 6"). Pursuant to Env-C 610, a fine of \$100 has been calculated.

#### **V. PAYMENT, WAIVER OF HEARING**

1. DES agrees to waive fines associated with Violations 2 through 6 because they are not Class I violations.
2. DES agrees to reduce the penalty for Violation 1 by \$12,500, based on Pembroke's level of cooperation (20%), small business reduction (15%), and other circumstances (15%).

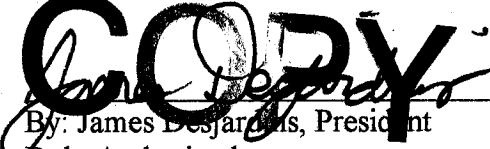
3. DES agrees to suspend an additional \$11,500 contingent on Pembroke committing no violations of statutes or rules implemented by DES for a period of one (1) year from the effective date of this Agreement. If Pembroke is found to have violated this condition, regardless of when the determination is made, a pro-rated portion of the suspended fine shall be immediately due and payable without opportunity for hearing, in addition to any penalty that may be imposed for the new violations(s).
4. Upon compliance by Pembroke with the conditions specified in Section V. Paragraph 3, DES will waive the associated fine amount.
5. Pembroke agrees to pay \$1,000 within the next six (6) months as follows:
  - a. \$170 of the fine shall be due and payable upon execution of this Agreement by Pembroke.
  - b. \$830 of the fine shall be paid in five equal payment of \$166 due each month, with the first payment due 30 days from the date of the fully-executed Agreement.
6. Payments under Section V. Paragraph 5, and any payment which becomes due under Section V. Paragraph 3 shall be paid by certified check made payable to: "Treasurer, State of New Hampshire" and shall be mailed to:

DES Legal Unit  
Attn: Michael Sclafani, Legal Assistant  
PO Box 95  
Concord, NH 03302-0095

7. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.
8. By executing this Agreement, Pembroke waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction.
9. The effective date of this Agreement will be the date on which it is signed by an authorized representative of Pembroke, and the Director of the Waste Management Division, and the Commissioner of DES.
10. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

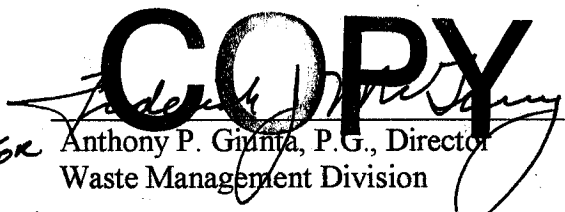
WHEREFORE, the parties voluntarily accept the terms of this Agreement.

**PEMBROKE SUNSHINE CENTER, INC.**

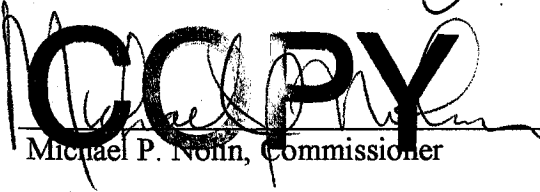
**COPY**  
  
By: James Desjardins, President  
Duly Authorized

12/26/05  
Date

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

**COPY**  
  
For Anthony P. Gianfa, P.G., Director  
Waste Management Division

1/4/06  
Date

**COPY**  
  
Michael P. Nolin, Commissioner

01 11 06  
Date